

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**\$13,054.00 in UNITED STATES  
CURRENCY,**

**Defendant.**

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**8:08CV373**

**ORDER TO SHOW CAUSE**

This matter is before the court *sua sponte* and pursuant to [NECivR 41.1](#), which states in pertinent part: "The court may at any time dismiss an action for lack of prosecution when it appears it is not being prosecuted with reasonable diligence." Further, [Fed. R. Civ. P. 4\(m\)](#) establishes a 120-day time limit for service of process on the defendant in a civil case, absent a showing of good cause.

In this case the complaint was filed on August 14, 2008. See [Filing No. 1](#). Accordingly, the deadline for service of process expired **on or about December 15, 2008**. The record shows the funds are in custody of the U.S. Marshal. See [Filing No. 7](#). Additionally, an affidavit provides evidence of notice by publication in the Lincoln Journal Star. See [Filing No. 8](#). However, service was returned unexecuted upon an individual, Leon Stanley. The return, filed on October 7, 2008, states Mr. Stanley was not located at a prior address due to his incarceration. See [Filing No. 9](#). No other action has taken place in this matter. Regardless of the status of service, it remains the plaintiff's burden to proceed. Upon consideration,

**IT IS ORDERED:**

The plaintiff shall show cause why this case should not be dismissed for failure to prosecute. The showing of cause shall be filed electronically on or before the close of business **on February 6, 2009**.

Dated this 14th day of January, 2009.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge